

# DKHG

## DWYER KINBURN HALL & GOLUB

*A Professional Corporation*

16 Furler Street, Totowa, NJ 07511-0437

Terrence Dwyer, Esq.  
E-Mail: TDwyer@DKHGlaw.com

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Tel: (973) 785-4100, Ext. 104  
Fax: (973) 785-4477

July 6, 2001

Via U.S. Post

United States Environmental Protection Agency  
Deena Sheppard-Johnson, SR-6J  
Remedial Enforcement Support Section  
77 West Jackson Boulevard  
Chicago, Illinois 60604



Re: The Chemical Recovery Systems Site, Elyria, OH  
"Peter Kiewit Sons, Inc. f/k/a Continental Can"

Dear Ms. Sheppard-Johnson:

This firm represents Level 3 Communications, Inc., f/k/a Peter Kiewit Sons, Inc., and Continental Holdings Inc., a third tier subsidiary of Level 3. We received a General Notice and supplemental material concerning the above site. As I told Mr. Nash by way of telephone conversation yesterday, you have contacted the wrong party.

The entity described on the ledger sheet and dirty inventory sheet as Continental Can and Continental Can Co. respectively most likely refers to an entity named Continental Can Company, Inc., a New York corporation formed in 1913. In 1977, the date of the transaction referenced in the ledger, Continental Can Company, Inc. (NY-1913) was the entity which would have operated all United States manufacturing facilities.

In 1982, Continental Can Company (NY-1913) merged into a corporation named Continental Can Company, Inc., a Delaware corporation formed in 1976. The Delaware 1976 corporation was the survivor and took over the assets, liabilities and operations formerly the property of the 1913 corporation.

In or about 1984, Peter Kiewit Sons, Inc. purchased the stock of a corporation that owned 100% of the stock of Continental Can Company, Inc. (Del.-1976). Continental Can Company, Inc. (Del.-1976), continued operations as a subsidiary of some tier to Kiewit, though at some point in time it changed its name to Continental Beverage Packaging, Inc.

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In 1990, Crown Cork & Seal Co., Inc., an unrelated corporation, purchased 100% of the stock of Continental Beverage Packaging, Inc. and changed Continental Beverage Packaging's name to Crown Beverage Packaging, Inc. Therefore, the properly named party is Crown Beverage Packaging, Inc., f/k/a Continental Can Company, Inc.

To the best of my knowledge, Crown Beverage Packaging, Inc. is still operational, or has merged into Crown Cork, or some Crown Cork entity. Crown Cork is one of the largest, if not the largest, manufacturer of cans in the world. It can be reached at the following address:

William T. Gallagher, Esq.  
Crown Cork & Seal Co. Inc.  
One Crown Way  
Philadelphia, PA 19154  
Phone 215-698-5383  
Fax 215-698-6061  
e-mail [WGALLAGH@CROWNCORK.COM](mailto:WGALLAGH@CROWNCORK.COM)

As I informed Mr. Nash, the ultimately liable party will be determined by the nature of the plant involved. Crown may tender the defense of this matter pursuant to an indemnification in the stock purchase agreement to Continental Holdings Inc. if it turns out that the plant producing the listed waste was not a metal can plant. However, Continental Holdings Inc. is not directly responsible. Crown Beverage is the proper PRP to be named.

I will be on vacation for two weeks. Upon my return from vacation, we will attempt to ascertain what plant was involved. Continental Can Company, Inc. did have a metal can plant in Cleveland, and that seems like a good place to start. If you have any information that could help us identify the plant involved, please send it to us.

In any event, we will answer your 104(e) requests as best we can as soon as we can. But, as mentioned above, it may be difficult to respond in a meaningful way if the plant cannot be identified.

I will forbear at this time from sending you the Continental Crown stock purchase agreement, a rather bulky document. Crown and Continental have worked well in the past together with respect to similar problems, and I don't think Crown will disagree with my description of the corporate and contractual relationships between the two entities. However, if you need it, so inform me. I can send you a copy. If you have any

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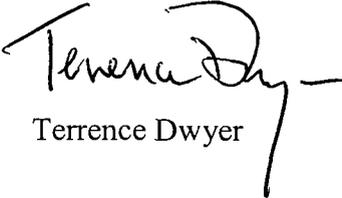
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questions, please call.

Sincerely,

A handwritten signature in black ink that reads "Terrence Dwyer". The signature is written in a cursive style with a long horizontal stroke at the end.

Terrence Dwyer

TD/pc

cc: Tom Stortz, Esq.

Mr. Paul Foss

Bill Gallagher, Esq.

(all via fax)

Thomas C. Nash, Esq. (C-14 J)

File No. Applied for

**DWYER KINBURN HALL & GOLUB**

A PROFESSIONAL CORPORATION  
16 FURLER STREET, PO BOX 437  
TOTOWA, NEW JERSEY 07511-0437



0950 TOTOWA, NJ

PB8683191  
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United States Environmental Protection  
Agency  
Deena Sheppard-Johnson, SR-6J  
Remedial Enforcement Support Section  
77 West Jackson Boulevard  
Chicago, Illinois 60604

60604+3511

